

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.4400/2012

Order Reserved on: 24.10.2016
Order pronounced on 08.11.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

Khazan Singh
S/o Shri Chwoki LAL
Village & Post: Sadrpur
District-Ghaziabad, U.P. Applicant
(By Advocate: Ms. Ritika Chawla)

Versus

1. Union of India
Through its Secretary
Ministry of Commerce
Udyog Bhawan
North Block
New Delhi.
2. Indian Trade Promotion Organization (ITPO)
Through its Chairman
Pragati Bhawan
Pragati Maidan
New Delhi – 110 001. Respondents

(By Advocate: Mr. Rajinder Wali with Mr. Ahmed Pasha)

O R D E R

By V. Ajay Kumar, Member (J):

The applicant, who has been appointed as Attendant in the 2nd Respondent-Indian Trade Promotion Organization, with effect from

23.04.1998, on regular basis, filed the OA, seeking the following relief(s):

- (1) "Production of original records
- (2) Quash and set aside the order dated 07.02.2012 being illegal and arbitrary.
- (3) Direct the respondents to treat the applicant as regularized in terms of Order No.ADMN.38/90 (File No.1-TFA(16)E.I/89) wherein a regular post of Helper was created for the applicant and also direct the respondents to grant other consequential benefits to the applicant.
- (4) Any other relief this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case may also be granted.
- (5) Cost of the proceedings may also be awarded in favour of the applicant."

2. Heard Ms. Ritika Chawla, the learned counsel for the applicant and Shri Rajinder Wali and Shri Ahmed Pasha, the learned counsel for the respondents, and perused the pleadings on record.

3. Admittedly, the applicant along with certain others, who were also initially engaged as Muster Roll Labourers/Helpers on daily wage basis in the respondent-ITPO, filed Civil Writ Petition No.1995/1993 in the Hon'ble High Court of Delhi and the said Writ Petition was disposed of by an Order dated 30.05.1997, as under:

"C.M.4846/97 and CW.1995/93

This is an application moved by the petitioner for the disposal of writ petition in terms of letters dated 12.2.1997 of ITPO General Manager (Admn.); 2.4.1997 of ITPO, Senior Manager and para 3 of the reply dated 26.05.1997 filed on behalf of respondents 1 and 2.

Learned counsel for the respondents states that he has no objection for disposal of the writ petition in terms thereof.

In view of the stand taken by the parties, the writ petition is disposed of in terms of the letters dated 12.2.1997 of ITPO General Manager (Admn.); 2.4.1997 of ITPO, Senior Manager and para 3 of the reply dated 26.5.1997 filed on behalf of respondents 1 and 2. Para-3 of the reply dated 26.5.1997 says:-

"3. The actual terms of agreements reached between the parties are as follows:-

- a) The management is desirous to settle the matter with the concerned employees and accordingly, it was agreed that employees will be absorbed in the existing regular vacancies to the extent of vacancies available.
- b) As regards, those employees in the writ petition No.1995 filed on behalf of 35 persons and who can not be regularized immediately due to not having sufficient vacancies, the status quo will be maintained.

The aforesaid terms were communicated vide letter No.4ITPO(5) E.1/97 dated 12.2.97 and also clarified subsequently vide letter No.40ITPO(5) E.I/97 dt.2.4.97 that the status quo will be maintained till they are regularized in future."

The statements contained in the two letters and the reply is taken on record and writ petition is disposed of in terms thereof. Parties shall be bound by the terms."

4. In terms of the aforesaid orders in the said Writ Petition, the respondents issued Annexure A17-Offer of Appointment, dated 13/15.04.1998 offering him to the post of Attendant, subject to the terms and conditions mentioned there under. As per the said letter of offer of appointment, the applicant was appointed as Attendant on regular basis and was placed on probation for a period of one year from the date of appointment. The applicant, who assumed office as Attendant in pursuance of the said order w.e.f. 23.04.1998, filed the present OA, seeking a direction to regularise his services w.e.f. 08.01.1990, i.e., in terms of the Annexure A3-Order, whereunder sanction was accorded for creation of a post of Helper, on the ground that the applicant had been working in the said post on casual basis till his regular appointment in terms of the Annexure A17-Offer of Appointment. The applicant preferred the present OA, after a lapse of

14 years, from the date of his appointment as Attendant on regular basis.

5. The OA is liable to be dismissed firstly on the ground of abnormal delay and latches, since the cause of action for seeking a direction to regularize the services of the applicant w.e.f. 08.01.1990, arose when he was permanently appointed on regular basis as Attendant w.e.f. 23.04.1998, vide Annexure A17, dated 13/15.04.1998.

6. The OA is also liable to be dismissed on the ground of estoppel, as the applicant has accepted Annexure A17-Offer of Appointment, dated 13/15.04.1998, without any protest or objection, and accordingly was appointed as Attendant w.e.f. 23.04.1998.

7. The OA is also liable to be dismissed as the applicant was appointed as Attendant w.e.f. 23.04.1998, in pursuance of the orders of the Hon'ble High Court of Delhi in CWP No.1995/1993, dated 30.05.1997.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly, the same is dismissed. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)